

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	
BETH AMENDOLA, on behalf of herself	:
and others similarly situated,	:
	:
Plaintiffs,	:
	:
v.	:
	:
BRISTOL-MYERS SQUIBB COMPANY,	:
and Does 1 through 20, inclusive,	:
	:
Defendant.	:
-----X	

07 CV 6088 (DLC)

(ECF CASE)

DECLARATION OF
NITIN P. PRADHAN

NITIN P. PRADHAN, declares, pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1. I am a Senior Hospital Territory Business Manager (“TBM” or “sales representative”) in the Cardio-Vascular Metabolics (“CV-Met”) business division for Bristol-Myers Squibb Company (“BMS”). I have been with BMS since June 22, 1987.

2. I am a member of the Northern New Jersey Specialty District, in which there are 11 sales representatives total, including 8 cardiovascular risk specialty sales representatives and 3 cardiovascular risk specialty institutional (hospital) sales representatives. The Northern New Jersey Specialty District is within the Greater New York Region.

3. I have represented the Paterson Hospital Territory since 2003 and am the only CV-Met BMS sales representative calling on hospitals in that territory.

4. I do not work out of an office but, rather, work out of my car and my home.

5. My job is to increase prescriptions and sales of Plavix in my territory within the approved indications and for the appropriate patients. I do this by calling on medical professionals and persuading them to prescribe Plavix in lieu of our competitors' pharmaceutical drugs. I consider these medical professionals to be my "customers."

6. Unlike primary care representatives who call on doctors in private offices and typically speak with a single doctor in an office, I call on hospitals. This means that I call on several different types of doctors (such as cardiologists, residents, and emergency room doctors), in addition to other medical professionals such as nurses, nurse practitioners, pharmacists, and case managers, to create an environment where everyone in the hospital who is responsible for treating patients would choose to prescribe Plavix, where appropriate, over our competitors' products. For example, I might call on the hospital's Emergency Room ("ER") director, because even though he is not the only one who is going to prescribe Plavix, based on past conversations with him I have determined that he might be able to convince others in the ER to use or prescribe Plavix.

7. I am also responsible for trying to get Plavix added to the formulary (the hospital's list of approved pharmaceutical products used for a particular disease state) of the institution I am calling upon. I do this by calling upon physicians, pharmacists, nurses, nurse practitioners, and nurse managers, and convincing them how and why it is in their best interests as well as the best interests of their patients and the hospital to prescribe Plavix. When I do my job successfully, everyone in the hospital will agree that for that hospital, my product is better than their current treatment and/or that my product will better serve their needs.

8. While BMS provides me with a list of doctors to call upon generally, I help build and maintain that list by adding or subtracting doctors based on current developments

in my territory and according to business needs. For example, because I am the only sales representative out in the field in my territory, I am the only one who can keep track of who is moving in and out of the hospitals (such as residents or new physicians). However, within a given week or month, it is entirely up to me which doctors to call on, how frequently, and on what days.

9. I determine my own schedule based on the availability of the doctors I call upon, what I need to achieve in a given day, and what the circumstances are in my territory. For instance, at a certain hospital in my territory, I am aware that on Thursdays there is a cardiology clinic. Because I am aware that I have a better chance on Thursdays of meeting doctors (cardiologists) at that hospital who can influence/increase prescriptions of Plavix where appropriate and who, by extension, are good for my business, I make it a point to call on that particular hospital on Thursdays. I was not told by anyone to do this – this was my own decision because I believe it maximizes sales in my territory.

10. I tailor my sales call to the particular physician to whom I am speaking. I tailor the calls based on various factors, including that physician's interests, his/her patient's needs, how much time that physician allots me to speak with him/her, and the goal I wish to achieve during the call.

11. Before conducting a call, I prepare by doing pre-call planning. I review the available data on the doctors I am going to call on, the call notes from my last call with those doctors to see where we left off in that last call and if there are any issues I need to follow up with, as well as the call notes from any of my BMS colleagues who have called upon any of my doctors in their private practice (as opposed to their hospital practice, where I exclusively do my calls). I review those colleagues' notes to see where I can further build upon the discussion from

where my colleagues have left off. I decide how to proceed with the doctor during our call based on the last discussion I had with a doctor, based on my sales training, and based on what I have chosen to use in terms of promotional materials for that call.

12. What distinguishes me from my colleagues is the approach I take when calling on doctors. I listen carefully to their concerns and their needs in order to tailor my presentation to specifically address and respond to those needs and concerns, which makes my interactions with my customers meaningful and, by extension, helps increase sales in my territory. I find that when I listen properly to a doctor's needs and concerns, the next time I am in that doctor's office, he does not think I am wasting his time and is more apt to give what I am saying more consideration, which makes it more likely that he will prescribe Plavix where appropriate.

13. During a sales call, I use a variety of sales and promotional aids, including sales brochures, clinical reprints, flash cards, and dosing cards. Although these sales aids are approved by BMS, I choose which combination of sales aids to use on a given call. The combination of sales aids I select, and how many I choose to use, depends on the medical professional with whom I am speaking and what his/her needs are, what is relevant to their practice, and how much time I have to speak with him/her.

14. I conduct various promotional programs, including dinner lecture programs, and lunch and breakfast programs at the hospitals upon which I call. When I plan programs, I decide which programs to conduct based on what is appropriate for my business needs. I decide when to hold the event, where to hold it, and whom to invite. If it is a speaker program, I decide which speaker to invite to conduct the program, from a large list of pre-approved speakers.

15. I have been trained on the ENGAGE sales model, which is a tool that sales representatives use to help get the most out of a sales call. I am not required to follow all of the steps of ENGAGE on every call, as that might not be practical given the particular situation. Instead, I use my own judgment and tailor each call to the particular doctor and situation.

16. Developing a bond with a doctor is important to increasing sales in my territory. If a doctor I have been working with in the past knows that the information I give him is reliable, that helps me sell more Plavix in my territory. If I have that relationship, bond, and trust with a doctor, it is natural for him/her to want to do more business with me. I try to develop and maintain relationships with the doctors in my territory.

17. With the exception of “ride-alongs” every four to six weeks (when my District Business Manager or Regional Business Head accompanies me on a call), I am in the field most of the time on my own and without any direct supervision.

18. For the past three or four years, I have been earning over \$100,000 per year in salary and incentive compensation. Last year, my base salary was approximately \$86,000 and I earned approximately \$28,000 in incentive compensation.

19. My incentive compensation is based on how many prescriptions of Plavix are filled in my territory, and ultimately, both total sales and growth of sales of Plavix in my territory. Many of the decisions I make – such as who to call on, how often to call on them, and how and where to focus my resources – are to focus my efforts on driving sales of Plavix in my territory, and therefore maximize my incentive compensation.

I declare, under penalty of perjury, that the foregoing is true and correct.

Executed on February 5, 2008


NITIN P. PRADHAN